

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IBUKUN OLOWA WASHINGTON, §
#1941101, §
Plaintiff, §
§
v. § USDC No. 3:16-CV-1374-M-BK
§ USCA No. 18-10039
MICHAEL R. MACKEY, Warden, et al., §
Defendants. §

ORDER REGARDING IN FORMA PAUPERIS ON APPEAL

Before the Court is Plaintiff's motion to proceed *in forma pauperis* on appeal filed on January 8, 2018. Doc. 89. Considering the record in this case, the Court hereby finds and orders:

(X) The motion for leave to proceed *in forma pauperis* on appeal is DENIED for the following reasons:

(X) Pursuant to 28 U.S.C. ' 1915(a)(3) and FED. R. APP. P. 24(a)(3), the court certifies that the appeal is not taken in good faith. In support of this finding, the court adopts and incorporates by reference the December 18, 2017 order denying Plaintiff's second motion for temporary restraining order. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.21 (5th Cir. 1997). Based on that order, the Court finds that the appeal presents no legal points of arguable merit and is therefore frivolous.

IF PERMISSION TO APPEAL IN FORMA PAUPERIS IS DENIED BECAUSE THE COURT CERTIFIES THE APPEAL IS NOT TAKEN IN GOOD FAITH, COMPLETE THE SECTION BELOW.

(X) Although this court has certified that the appeal is not taken in good faith under 28 U.S. C. ' 1915(a)(3) and FED. R. APP. P. 24(a)(3), the defendant may challenge this finding pursuant to *Baugh v. Taylor*, 117 F. 3d 197 (5th Cir. 1997), by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within 30 days of this order. The cost to file a motion to proceed on appeal with the Fifth Circuit is calculated below, and if the defendant moves to proceed on appeal *in forma pauperis* the prison authorities will be directed to collect the fees as calculated in this order.

(X) The defendant is assessed an initial partial fee of \$ 1.00. The agency having custody of the defendant shall collect this amount from the trust fund account or institutional equivalent, when funds are available, and forward it to the clerk of the district court. *See* 28 U.S.C. § 1915(b)(1).

(X) Thereafter, the defendant shall pay \$ 504.00, the balance of the filing

fee, in periodic installments. The defendant is required to make payments of 20% of the preceding month=s income credited to the defendant=s prison account until defendant has paid the total filing fee of \$505.00. The agency having custody of the defendant shall collect this amount from the trust fund account or institutional equivalent, when funds are available and when permitted by 28 U.S.C. § 1915(b)(2), and forward it to the clerk of the district court.

If the defendant moves to proceed on appeal *in forma pauperis*, the clerk is directed to transmit a copy of this order to the inmate accounting office or other person(s) or entity with responsibility for collecting and remitting to the district court interim filing payments on behalf of prisoners, as designated by the facility in which the prisoner is currently or subsequently confined.

SO ORDERED this 1st day of February, 2018.



BARBARA M. G. LYNN
CHIEF JUDGE